

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF TENNESSEE  
SOUTHERN DIVISION

In re:

No. 00-16176  
Chapter 7

JOHN WESLEY WHITE  
KARLA SMITH WHITE

Debtors

LEO SPURGEON, d/b/a  
Sand Mountain Cabinets

Plaintiff

v

Adversary Proceeding  
No. 01-1089

JOHN WESLEY WHITE

Defendant

**MEMORANDUM AND ORDER**

This adversary proceeding was commenced by the plaintiff to determine the dischargeability of a debt owed to him by the debtor. The complaint cited 11 U.S.C. § 523(a)(2)(A), 11 U.S.C. § 523(a)(4) and 11 U.S.C. § 523(a)(6) as the statutory bases for the court to determine that this debt is not dischargeable.

On June 18, 2001, the defendant filed a motion for summary judgment stating that the complaint fails to state a claim upon which relief can be granted under 11 U.S.C. §§ 523(a)(2)(A) and (a)(4). The motion was accompanied by a brief in support of the motion. Plaintiff filed a

response to the motion to dismiss and the court entered a Memorandum and Order on October 24, 2001, dismissing the counts under 11 U.S.C. §§ 523(a)(2)(A) and (a)(4).

On November 1, 2001, the defendant filed a motion for summary judgment stating that the remaining portion of the complaint fails to state a claim upon which relief may be granted. The motion was accompanied by a brief in support of the motion.

Pursuant to *E.D. Tenn. LBR 7007-1*, the plaintiff has twenty (20) days after the filing of the motion to respond. The rule also provides: “A failure to respond shall be construed by the court to mean that the respondent does not oppose the relief requested by the motion.” By his failure to respond to the motion for summary judgment, the plaintiff does not oppose the relief requested by the motion. Furthermore, the court concludes that the defendant is entitled to the relief requested for the reasons set forth in the defendant’s brief. Accordingly,

It is ORDERED that the motion by John Wesley White for summary judgment is GRANTED and this adversary proceeding is DISMISSED with costs to the plaintiff.

ENTER:

BY THE COURT

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R. THOMAS STINNETT  
UNITED STATES BANKRUPTCY JUDGE

[entered 11/28/01]